IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 28TH SEPTEMBER 2006 / 6TH ASWINA 1928

OP.No. 39687 of 2002(Y)

PETITIONER:

MOHAMMED ASHRAFF.M.P., AGED 50 YEARS,
S/O. PAREED BAVA KHAN, MATHACKAL, ERATTUPETTA P.O
KOTTAYAM DISTRICT.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:
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1. THE KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR, HEAD OFFICE, T.C. 15/25-PANKAJ, VELLAYAMBALAM, THIRUVANANTHAPURAM-10

2. DISTRICT MANAGER, THE KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION LIMITED, ERAYAIL KADVU, KOTTAYAM.

3. THE VILLAGE OFFICER, ERATTUPETTA.

BY ADV. SRI.K.VINODKUMAR
SRI.P.K.MANOJKUMAR
GOVERNMENT PLEADER SRI.P.A.SALIM FOR R3
SRI.N.NANDAKUMARA MENON, SC FOR R1 AND R2

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP 39687/2002

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE LETTER NO.ROEK/05/FU-6/96 DATED NIL OF THE REGIONAL MANAGER.

EXHIBIT P2: TRUE COPY OF the SANCTION ORDER NO.05/56/3/1996-1 DATED 07.02.1997 OF THE FIRST RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE LETTER NO.ENB-120 DATED 06.07.2001 OF THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE RECEIPT NO.2323 DATED 05.03.1998

EXHIBIT P5: TRUE COPY OF THE RECEIPT NO.1675 DATED 05.02.1998

EXHIBIT P6: TRUE COPY OF THE RECEIPT NO.767 DATED 03.12.1997.

EXHIBIT P7: TRUE COPY OF THE RECEIPT NO.2013 DATED 30.09.1997

EXHIBIT P8: TRUE COPY OF THE RECEIPT NO.1645 DATED 27.08.1997

EXHIBIT P9: TRUE COPY OF THE RECEIPT NO.930 DATED 23.06.1997

EXHIBIT P10: TRUE COPY OF THE RECEIPT NO.614 DATED 24.05.97.

EXHIBIT P11: TRUE COPY OF THE RECEIPT NO.105245 DATED 30.07.2001.

EXHIBIT P12: TRUE COPY OF THE LETTER NO.ENB.120 DATED 30.11.2001 OF THE 2ND RESPONDENT.

EXHIBIT P13: TRUE COPY OF THE RECEIPT NO.222530 DATED 05.08.2002.

//TRUE COPY//

P.A. TO JUDGE

OP39687/2002

ORDER ON C.M.P.NO.66561/2002, C.M.P.NO.6510/2003 & I.A.NO.345/2005 IN OP NO.39687/2002

DISMISSED

28.09.2006 **Sd/-**
C.N.RAMACHANDRAN NAIR, JUDGE

C.N.RAMACHANDRAN NAIR, J.

O.P. NO. 39687 OF 2002

Dated this the 28th day of September, 2006

J U D G M E N T

Eventhough the O.P is pending for the last 4 years, no counter affidavit is filed for respondents 1 and 2. The counter affidavit filed by 3rd respondent does not serve any purpose as challenge in the O.P is not met with facts, figures or on law. Petitioner's main grievance is against demand of contract rate of 7% interest and 12% interest over it for default, totalling 19%. The petitioner is given loan as member of backward community by the Backward Classes Development Corporation. I feel 12% penal interest for default in payment as against 7% contract rate is exhorbitant and arbitrary. More so, the petitioner's case of financial hardship appears to be genuine as he has made payments before filing OP and even after filing. Therefore, I feel an opportunity can be given for settlement. Respondents are therefore directed to reduce penal interest to 5%, provided petitioner clears the balance arrears due with contract rate of interest along with 5% towards penal interest for the period of default on or before 31/12/2006. There will be a direction to the

revenue authorities not to recover collection charges for payments voluntarily made.

2. There will be a direction to the 2nd respondent to give a detailed statement after reworking the liability by taking into account recoveries and payments already made by the petitioner either directly or through the revenue authorities in recovery proceedings.

O.P is disposed of as above.

C.N.RAMACHANDRAN NAIR,
JUDGE

Rp